IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 163 of 1999
in
SPECIAL CIVIL APPLICATION No 462 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANAIYALAL MOHANLAL PUROHIT

Versus

MANIBHAI MOHANBHAI PATEL

Appearance:
1. LETTERS PATENT APPEAL No. 163 of 1999
MR RV DESAI for Appellant No.
MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE A.L.DAVE

Date of decision: 16/04/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. This appeal is directed against the order dated 27.1.1999 passed by the learned Single Judge of this court in Special Civil Application No.462/99 whereby the learned Single Judge dismissed the writ petition filed by the appellant-petitioner.

#. The appellant-petitioner is workman. He was serving as Gumasta with the respondent firm. According to him, he was appointed in 1978 at the monthly salary of Rs.400/=. In June, 1988 he was earning Rs.850/= p.m. His services were terminated on 3.7.1999 without following procedure under provisions of Industrial Disputes Act. Therefore, reference being Reference (LCB) No.114/96 was filed before the Labour Court, Himatnagar. The Labour Court partly allowed the reference by its impugned award dated 15.10.1998 and ordered to pay lumpsum amount of Rs.36,000/= by way of compensation. In view of the aforesaid fact that the firm was closed down on 6.8.1998, the Labour Court refused to pass an order of reinstatement and back wages, therefore, that part of the award was challenged by the appellant-petitioner-workman before this court by way of writ petition, which was dismissed by the learned Single Judge of this court on 27.1.1999. Hence, this appeal.

#. Learned counsel Shri Desai for the appellant-petitioner submitted that while passing the award the Labour Court exceeded its jurisdiction. He, therefore, submitted that the reference made before the Labour Court was to reinstate the petitioner with full back wages. In spite of that the Labour Court has awarded only lumpsum amount of Rs.36,000/= and denied reinstatement with back wages. He, therefore, submitted that the Labour Court has exceeded its jurisdiction vested in it under Section 10(4) of the Industrial Disputes Act. Admittedly, in this case, the respondent firm was closed down on 6.8.1988 after the termination for the appellant-workman on 3.7.1988. In that view of the matter, there is no question of passing any order of reinstatement of the appellant-petitioner. The appellant-workman was working on the monthly salary of Rs.400/= from 1978 till June, 1988 with the respondent-firm. His salary in June, 1988 was Rs.850/= p.m. In that view of the matter, when the learned Judge has thought it fit to award lumpsum of compensation of Rs.36,000/= then, we are of the considered opinion that the learned Single Judge was absolutely justified in not interfering with such award in writ jurisdiction under

Articles 226 and 227 of the Constitution of India. In such type of cases this court would not like to interfere with the order passed by the learned Single Judge and the impugned award passed by the Labour Court.

In view of the above discussion, this Letters Patent Appeal fails and is hereby dismissed with no order as to costs.

Civil Application No.815/99 is dismissed as the main Letters Patent Appeal is dismissed.

(B.J.Shethna, J.)

(A.L.Dave, J.)

*Pvv